



**AN AMENDMENT TO THE TETON COUNTY  
ZONING ORDINANCE - TO ADD SECTIONS  
REGARDING DAY CARE FACILITIES**

Planner: Curt Moore

Prepared June 24, for the Planning & Zoning Commission  
Public Meeting of July 12, 2011

**APPLICANT:** Teton County Planning Administrator

**APPLICABLE CODES:** Title 8 Teton County Zoning Ordinance- 05-12-2011

**REQUESTS:** Amend the following sections of Title 8 that relate to three categories of day care facilities: (see Attachment 4-2)

1. Section 8-4-1 Table 1 Land Use Matrix:

- a. Remove the existing row "*Day Care, Residential*", which presently requires a *Conditional Use Permit (CUP)* in all listed zoning districts. Residential Day Care permits no more than 6 children (not related to the provider) to be cared for in a residence. A CUP requires two public hearings and has an application fee of \$1260.
- b. Add a row replacing the above definition entitled "*Day Care Home, Family*" and list the use as *Permitted-by-Right* in the following zones: A-20, A-2.5, and R-1. There is no application fee and no formal review presently for any *Permitted-by-Right* use.
- c. Add a row entitled "*Day Care Facility, Group*" (7-12 children)" and list it as *Permitted with Conditions (PC)* in the A-20, A-2.5, and a *Conditional Use Permit (CUP)* in R-1, and C-2 zones. This is a new use category for Teton County, but is a separate category defined by the Idaho Department of Health & Welfare. The application fee is \$268 and the review and decision to approve or deny are authorized to be made by the Planning Administrator (staff) instead of public review by the Planning & Zoning Commission and Board of Commissioners. No public hearings are required.

2. Section 8-4-2 Definitions: remove the existing definitions and add or replace with the following: (see Attachment 4-10)

- a. **DAY CARE CENTER:** *(replace the existing definition with the following)* A facility licensed by the State of Idaho to provide day care for thirteen (13) or more minor children during a part of a 24 hour day, without overnight stays. This term is inclusive of nursery schools, preschools, and play-groups and excludes facilities that offer care overnight or a full 24-hour period.
- b. **DAY CARE FACILITY, GROUP:** *(is a completely new category)* A Day Care Facility, Group may use either a commercial property or a residential dwelling and the lot upon which it is located to conduct a business providing State of Idaho

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licensed daycare to between seven (7) and twelve (12) children for periods of up to 12 hours per day. The total count of daycare children shall include all the children of any caregiver when the children are present in the home.

- c. DAY CARE HOME, FAMILY: (*replaces Day Care, residential*) A Family Day Care Home uses a residential dwelling and the lot upon which it is located to conduct a business providing the day care of up to six (6) children for periods up to 12 hours per day. The total count of daycare children shall include all the children of any caregiver when the children are present in the home. The State of Idaho does not require that a Family Day Care Home provider be licensed.

3. Section 8-6-2 , Table 8-6-2 Standard PC Conditions: (see Attachment 6-7)

- a. Add the row for *Day Care Facility, Group* with standard conditions for Parking, Hours of Operation, Signage, Additional Inspections, and Additional Comments.

4. Section 8-6-2-B-14 Day Care Facility, Group

Day Care Facility, Group (A-20, A-2.5, R-1, C-2)

- a. All Group Day Care facilities shall be licensed by the State prior to providing day care for more than 6 children and shall maintain all licensure requirements.
- b. A parking and/or drop-off area shall be designated entirely within the property and shall not depend upon the use of public or private roadways for parking or drop-offs. The drop-off/parking area should accommodate three vehicles at one time, not including the vehicles of the residents.
- c. Roadway and traffic impacts to private subdivision and/or public roads are possible and may require some proportionate mitigation, as determined by the County Engineer.

**BACKGROUND:**

Presently, there are only two categories of day care defined in the Teton County Zoning Ordinance. There are three categories defined by the Idaho Department of Health and Welfare, which is the entity that licenses day care providers.

Presently, a provider who cares for 6 or fewer children (called a *Day Care, Residential* in Section 8-4-2) must apply for a Teton County Conditional Use Permit and the application fee is \$1260 A CUP requires two public hearings and a fair amount of additional materials supporting the application. This same provider of six or fewer children would not be required by the State to get a license to operate a *Family Day Care Home*” (as it is called by the State)

**ISSUES:**

*Why is the Planning Department proposing these changes to the existing Zoning Ordinance?*

The Department has received calls lately from existing daycare providers who have been asked by a state agency to show that they are in compliance with local regulations, including zoning regulations. In reading the existing regulations staff noticed that a “residential day care” is defined as one that is conducted in a home and cares for no more than six (6) children (who are



not related to the provider). A Conditional Use Permit is required and that application fee is \$1260. The process requires two public hearings and with agency notification periods and time periods for approving meeting minutes, this process can easily last four months from application submittal to final hearing by the BOCC. This struck staff as being overly expensive and burdensome for a small scale home use that is not even required to obtain a license from the State Department of Health and Welfare. The Family Day Care Home is probably more similar (in terms of neighborhood impacts) to a home occupation or even babysitting than it is to the other CUP uses allowed in residential zoning districts such as campground, heliport, batch plant, church, education facility, or sewage treatment facility. Likewise, our present process (CUP) is a more expensive and involved process for this use than is common in many communities.

*Why add another classification, "Day Care Facility, Group" to the Zoning Ordinance?*

The State defines three basic levels of daycare and the Teton County Zoning Ordinance defines only two. There are good reasons for the County to match the State categories. Having a third category enables "family day care home" providers to take more than six children so long as they are willing to have greater health department oversight and have the neighborhood impacts evaluated under the zoning regulations. Our current category called "Day Care, Residential" permits six children in a home, and the next step up, "Day Care Center" is for more than six children and often has dozens of children enrolled. Given that there are only the two sizes, small and large so to speak, the parents of children and daycare providers lack the added flexibility of having an intermediate level of daycare category. This category of group daycare can still take place in a home setting and need not obtain commercially zoned space. However, once seven or more children are cared for, the State gets involved with licensing, background and education checks, health department monitoring, and inspections by the Fire District.

*Why is the Planning Department proposing to make a Family Daycare Home "Permitted by right"?*

The State does not require licensing of "family-home-day-care" providers when six or fewer children are cared for. There are homes with one adult watching six or more kids, whether the children are related or not. The Department has not received complaints about this type of daycare arrangement in the last year. The use is similar to the various Home Occupations uses. The permitting requirements for a Home Occupation are spelled out in the Zoning Ordinance. The six-child day cares are similar in potential impacts to a neighborhood as a home occupation. However, the number of daily vehicle trips associated with a day care home may be greater than typical home occupations. These vehicle trips impact neighborhood and subdivision roads, whereas day care centers are typically located in commercially zoned areas or are accessed off of arterial streets.

*How would regulating "Day Care Facility, Group" be different from "Day Care Home, Family"?*

Group day care facilities would be classified as "Permitted with Conditions" in Section 8-6-2. The Planning Administrator, in consultation with County Engineer and possibly the Home Owners Association (HOA), would evaluate the local circumstances of the road, driveways, parking and drop-off areas, plus determine whether there was a need for any buffering or limits on hours of operation. The Planning Administrator would issue a Group Day Care permit only upon demonstrating that all potential issues were mitigated and State licensing was in place.



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*What impacts would be expected in a neighborhood in association with a Group Day Care Facility?*

It is possible for each child to generate 4 trips per day on the neighborhood road. This includes a trip into the neighborhood for morning drop off, then the trip out of the neighborhood, then a pick-up trip in and a trip out in the evening.) If a Group Day Care has 12 children, then 48 vehicle trips are possible, even more if there are two half-day sessions. What Staff has observed is that “rush hour” in the morning may mean that several cars stack up at an intersection waiting to pull onto a busier road from the neighborhood road and this has been seen as a problem to residents of the neighborhood. The “Permitted with Conditions” review would examine the specific road conditions and the County Engineer would be asked for recommendations. It is not unusual for neighbors to feel that their privately maintained roads are unduly burdened from the additional traffic load that a day care generates. Depending on the surface materials and condition of the road, they may be right. If subdivisions’ covenants are not clear whether day cares are allowed or not then the day care provider might be required to reduce impacts or provide mitigations for those impacts.

### **CONSISTENCY WITH THE APPLICABLE POLICIES OF 2004 COMPREHENSIVE PLAN**

The 2004 Comprehensive Plan enumerated a vision and set of policies for the Valley that are listed below. Unfortunately, the goals and policies in the 2004 Comp-Plan are not well-tailored to a specific proposal such as whether to allow day care facilities of an intermediate size (7 to 12 children) in A.25 and A-20 residential areas. While Day Care Centers are still clearly oriented to be in commercial areas, Group Day Care Facilities are adding a possibility of more traffic in outlying areas. Given that day care is such a vital community function, and that much of the community population is outside of the three city limits, allowing this type of use in residential areas seems reasonable if there are not too many off-site impacts. The Commission should examine the selected policies below and consider whether the proposed text amendment is supported by these statements in the Comprehensive Plan.

#### **Chapter 8 Economic Development**

*Policy 3: One of the county's prime economic values is the attraction of a rural, small town lifestyle, magnificent views, clean air and water, and abundances of outdoor recreational opportunities. Development and land use proposals that support and balance these values with desirable growth should be encouraged.*

- ✓ **Staff response:** Because this is a rural small town area, the low wages and lack of employers requires two-parent working and oftentimes commuting to Jackson. Without adequate childcare, the rural lifestyle would not be feasible for a significant number of the population. Likewise, there are accredited day care providers who could take more children into their care. Staff believes that a greater range of day care facilities and classifications would enhance the local parents’ day care choices and not overwhelm neighborhoods with too much traffic.

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## **Chapter 9 Land Use**

*Policy 4: Conserve and protect esthetic values including scenic open spaces, quiet neighborhoods, dark night skies, clean air, safe communities, and accessible public lands.*

- ✓ Staff response: By making Group Day Care Facilities a “Permitted with Conditions” use, there would be oversight about neighborhood traffic impacts as well as other impacts. These applications can be denied based on inadequate conditions or excessive impacts to the neighborhood.

## **Chapter 13 Transportation**

*“Many of the county roads are not appropriately engineered for significant increases in private or commercial traffic. Allowing only lower-density developments in the unincorporated county will help minimize the strain on the county's road and bridge budget as the county grows. Directing denser growth near the existing cities will help maximize efficient provision of road maintenance and water and sewer services.”*

- ✓ Staff Response: The County Engineer will be asked for an assessment of county and subdivision roads to a property applying to become a Group Day Care Facility. If the roads are already substandard, then some pro-rata improvements may be recommended or required. If an HOA needs a third-party assessment of what the increased vehicle trips are likely to do to the road surface, then the County Engineer may provide his/her professional opinion.

## **FINDINGS OF FACT FOR AMENDING THE TEXT OF THE ZONING ORDINANCE**

**Consistent with purposes.** The proposed amendment is consistent with Section 8-1-3 Purposes of Zoning Ordinance and of the Teton County Idaho Zoning Ordinance. In particular, the refinements of the day care regulations help in the ability to protect residential, commercial, industrial uses and public areas from unreasonable intrusion of incompatible uses.”

**Consistent with Comprehensive Plan.** The proposed amendment is consistent with the Teton County Comprehensive Plan 2004-2010, specifically in Chapter 2, which states: *To ensure that the development on land is commensurate with the physical characteristics of the land.*

**Consistent with State of Idaho regulations.** The proposed text amendment is more consistent with the Idaho Department of Health and Welfare categories for day care providers and better differentiates between three types of day care situations and specifies processes and application fees that are more commensurate with the State and County’s level of review.



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**PLANNING COMMISSION ACTIONS:**

- A. APPROVE the text amendment as presented in the application, having provided the reasons and justifications for the approval.
- B. Approve the text amendment with modifications, having provided the reasons and justifications for the approval and for any modifications or conditions.
- C. DENY the text amendment request and provide the reasons and justifications for the denial.
- D. CONTINUE to a future PZC Public Hearing with reasons given as to the continuation or need for additional information.

**Staff suggests the following motion:**

Having found that the changes to the day care zoning regulations are consistent with the purposes and goals of the Comprehensive Plan and with the County Zoning Ordinance's general goals and purposes statements, I recommend **approval** to the Board of County Commissioners of the proposed code sections, as presented in this staff report and on the attachments referenced in the staff report.

**Attachments:**

- Attachment 4-2, Land Use Matrix
- Attachment 4-10, Definitions for day care uses
- Attachment 6-7, Table 8-6-2 Standard PC Conditions Table
- Attachment 6-13, Day Care, Group –permitted with conditions criteria
- “Background Information : Child Day Care” From The Planner’s Dictionary
- Teton County Wyoming Land Development Regulations. definitions
- Teton County Idaho, Zoning Ordinance definitions for day care uses.
- State of Idaho Department of Health & Welfare definitions for three types of day care.

# Attachment 4-2

Title 8, Section 8-4-1

**Table 1 Land Use Matrix**

**ATTACHMENT 4-2**

Permitted by Right	P
Permitted with Conditions	PC
Conditional Use	CU

A-20	A-2.5	R-1	R-2	C-1	C-2	C-3	M-1
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## Residential

Assisted Living Center / Retirement Home			CU			CU		
Convalescent / Nursing Home			CU			CU		
Dwelling, Accessory Unit	PC	PC	P		P	P	P	
Dwelling, Multiple Family			P					
Dwelling, Single-Family Detached	P	P	P	P	P	P	P	
Dwelling, Two-Family			P					
Group Home			CU			CU		
Day Care Home, Family (up to 6 children)	P	P	P					
Day Care, Group (7-12 children)	PC	PC	PC	CU		PC		
Manufactured Home Park				P				
Mobile Home, Modular Unit, Single-Wide	P	P	P	P	P	P	P	
Wind Energy System	PC	PC			PC	PC	PC	PC

## Retail/Services/Office

Animal Grooming / Training	PC	CU					CU	CU
Appliance/Electronic Repair Service/Shop					CU	CU	CU	P
Automotive Convenience Store (C-store)						CU	CU	
Automotive Service Station					CU	CU	CU	

## Retail/Services/Office

Bakery					CU	CU		
Bar/Tavern/Night Club/Lounge					CU	CU		
Barber/Beauty Shop					CU			
Bed and Breakfast Inn , Boarding/Lodging House			CU		CU	CU		
Bed and Breakfast, Residential	PC	PC	CU		CU	CU		
Book Store					CU			
Campground, RV Park, Travel Trailer Camp	CU	CU					CU	
Clothing Sales/Repair					CU	CU		
Composting Facility	PC	CU						CU
Construction Materials Sales and Services						CU	CU	PC
Copy Shop					CU	CU		
Country Club						CU	CU	
Day Care Center (13+ children)			CU			CU		
Day-Care, Residential	CU	CU	CU	CU	!		!	!
Drug Store					CU	CU		

CROP PRODUCTION  
HOME:

The process of raising field, horticultural or garden crops or produce for the purpose of providing production for the owner of the land upon which the crops or produce are raised or for someone designated by the landowner, but not intended for sale.

DAIRY:

A commercial establishment set up for the purpose of manufacturing and/or processing of dairy products. This definition shall also include any accessory building related to dairy activities.

DAIRY BUSINESS:

The keeping of milk-producing animals, offspring and breeding stock primarily for the production of milk and/or the processing of milk products.

→ Proposed:  
DAY CARE CENTER:

A facility licensed by the State of Idaho to provide day care for thirteen (13) or more minor children during a part of a 24 hour day, without overnight stays. This term is inclusive of nursery schools, preschools, and plays groups and excludes facilities that offer care for overnight or a full 24-hour period.

→ Proposed:  
DAY CARE HOME,  
FAMILY

A Family Day Care Home uses a residential dwelling and the lot upon which it is located to conduct a business providing the day care of up to six (6) children for periods up to 12 hours per day. The total count of daycare children shall include all the children of any caregiver when the children are present in the home. The State does not require that a Family Day Care Home provider be licensed.

→ Proposed:  
DAY CARE FACILITY,  
GROUP

A Group Day Care Facility may use either a commercial property or a residential dwelling and the lot upon which it is located to conduct a business providing State of Idaho-licensed daytime care to between seven (7) and twelve (12) children for periods of less than 12 hours per day. The total count of daycare children shall include all the children of any caregiver when the children are present in the home.

DRUG STORE:

A business where legal drugs and medicines are prepared, dispensed and sold, and where a variety of unrelated merchandise and services are displayed and sold directly to the customer, also called a variety store with a pharmacy.

DRY CLEANERS:

An establishment where articles dropped off directly by the customer are laundered, altered or dry cleaned; or where articles are dropped off, sorted, and pickup up, but laundering or cleaning is done offsite.

DUDE RANCH:

A ranch that provides multi-night accommodations for guests, provides a recreational activity or immediate access to recreational activities, has dining facilities on-site, barns, associated buildings, corrals, pastures, and livestock related to a working ranch and/or the recreational activity



Table 8-6-2 Standard PC Conditions. A use in a listed zone district below shall comply with all conditions checked by an X for that use.	Buffer	Screening	Lighting	Parking	Hours of Operation	Signage	Outside Storage	Building Height	Technical Studies	Additional Inspections	Additional Comments
<b>Agriculture</b>											
Agricultural Processing Plant (A-20)	X		X		X		X				X
Beekeeping (A-2.5)	X						X				
Blacksmith (A-20, A-2.5)					X		X				
Commercial Feed Lot (A-20)	X	X					X		X	X	X
Dude Ranch (A-20, A-2.5)			X	X	X		X				
Plant Nursery/Greenhouse (A-20, A-2.5)	X	X	X	X	X	X	X	X			
Riding Academy (A-20, A-2.5, M-1)	X		X	X	X	X		X			
Riding/Training Stable (A-20, A-2.5, M-1)	X	X	X	X	X	X	X	X		X	
Wildlife Facility (A-20, A-2.5)				X	X	X	X				
<b>Residential</b>											
Dwelling, Accessory Unit (A-20, A-2.5)				X							
Wind Energy System (A-20, A-2.5, C-1, C-2, C-3, M-1)	X		X					X	X		X
Day Care Facility, Group	X	X	X	X	X	X	X	X	X	X	X
<b>Retail/Services/Office</b>											
Animal Grooming / Training (A-20)				X	X	X					
Bed and Breakfast Residential (A-20, A-2.5)	X			X		X					
Composting Facility (A-20)	X							X	X	X	
Construction Materials Sales and Services (M-1)			X				X			X	
Heavy Equipment Sales Lot (M-1)	X	X	X	X	X	X	X				
Kennel/Animal Boarding, Pet Daycare (A-20)	X	X	X	X		X	X		X	X	
Storage Units (M-1)		X	X		X	X	X				
Vehicle Repair Shop (M-1)	X	X	X	X	X	X	X				
Vehicle Sales Lot (M-1)	X	X	X	X	X	X	X				
Vehicle Wash (M-1)	X	X	X		X						
Veterinary Clinic (A-20)		X	X	X		X					
Waste Material Resale Store (A-20, M-1)	X	X			X		X				

- c. If located in an A-20 zoning district, the contractor shall be resident of the premises.

13. Construction Materials Sales and Service (M-1)

- a. Storage of materials outdoors shall be located to the rear or in the side yards of the building and fully screened from road views according to Chapter 12 and of sufficient height to hide the storage area.
- b. Seasonal sales materials may be stored outdoors in front of the building provided that:
  - i. Such materials shall be limited to placement adjacent to the front wall and outside of any drive, walkway, or parking area;
  - ii. A six (6) foot minimum width walkway separate the materials from any paved drive or parking area;
  - iii. Seasonal materials shall not be displayed, stored, or sold in the open for longer than 90 days in any calendar year;
- c. The operation shall not involve the use of external speakers.

14. Day Care Facility, Group (A-20, A-2.5, R-1, C-2)

- a. All Group Day Care facilities shall be licensed by the State prior to providing day care for more than 6 children and shall maintain all licensure requirements.
- b. A parking and/or drop-off area shall be designated entirely within the property and shall not depend upon the use of public or private roadways for parking or drop-offs. The drop-off- parking area should accommodate three vehicles at one time, not including the vehicles of the residents.
- c. Roadway and traffic impacts to private subdivision and/or public roads are possible and may require some proportionate mitigation, as determined by the County Engineer.
- d. Group Day Care facilities located in the A-20, A-2.5 and R-1 residential districts shall have no sign larger than six (60 square feet, in accordance with Permitted Signs, 8-9-4 (G-3).
- e. Group Day Care Facilities are subject to inspections by regulatory state and local agencies, including Teton County Planning Department to ensure compliance with all applicable regulations.
- f. Regular hours of operation are limited to twelve hours per day.

15. Dwelling, Accessory Unit (A-20, A-2.5)

- a. An accessory dwelling unit shall be a completely separated and independent additional living unit;
- b. It shall have its own kitchen, bathroom facilities, and sleeping area;
- c. If detached from the primary residential unit, its appearance shall be that of the primary unit or of the same character of the neighborhood and meet the setbacks of the zoning district in which it is located; and
- d. Two (2) off-street parking spaces shall be provided for the accessory unit.

16. Dude Ranch (A-20, A-2.5)



adjacent to the channel. (*Yamhill County, Wash.*)

■ **channel diversion** A channel that intercepts surface water runoff and that changes the accustomed course of all or part of a stream. (*Maple Grove, Minn.*)

■ **channel modification** Alteration of a channel by changing the physical dimensions or materials of its bed or bank. Channel modification includes dimming, riprapping (or other armoring), widening, deepening, straightening, relocating, lining, and significant removal of bottom or woody vegetation. Channel modification does not include the clearing of dead or dying vegetation, debris or trash from the channel. Channelization is a severe form of channel modification involving significant change in the channel cross-section and typically involving relocation of the existing channel (e.g., straightening). (*Schaumburg, Ill.*)

■ **channelization** The improvement of a waterway to ensure containment of flow within a designated alignment. The purpose for such is to minimize erosion and retain a long-range capability to convey the maximum flow discharge. This work may be accomplished with the use of native materials, vegetation, rip-rap, as well as structural improvements. (*Beaverton, Ore.*)

■ **character** (*See also community of place; sense of place*) Special physical characteristics of a structure or area that set it apart from its surroundings and contribute to its individuality. (*California Planning Roundtable*)

The image and perception of a community as defined by its built environment, landscaping, natural features and open space, types and style of housing, and number and size of roads and sidewalks. (*Austin, Tex.*)

■ **charitable organizations** (*See also eleemosynary institution; nonprofit organization*) Nonprofit organizations that are supported primarily by charity and whose principal function is the performance of charitable works or religious activities. This definition shall include but not be limited to churches, mosques, synagogues, or other religious institu-

tions. Not included in this definition are social organizations and clubs. (*Durham, N.C.*)

An establishment engaged in the giving of goods, goods, financial assistance, or grants, or offering services or other socially useful programs on a benevolent, nonprofit basis. (*Lake Elsinore, Calif.*)

■ **charity** A nonprofit organization which: (1) has been certified as a not-for-profit organization under Section 501(c)(3) of the Internal Revenue code, and (2) has religious, charitable, or eleemosynary functions or is a religious or charitable organization. As used in this definition, a charitable organization is an organization which exclusively, and in a manner consistent with existing laws and for the benefit of an indefinite number of persons, freely and voluntarily ministers to the physical, mental, or spiritual needs of persons, and which thereby lessens the burdens of government. (*Golden, Colo.*)

■ **charrette** A public design workshop in which designers, property owners, developers, public officials, environmentalists, citizens, and other persons or group of people work in harmony to achieve an agreeable [project]. (*Monroe County, Fla.*)

■ **charter** The governing document of a municipality. (*New York Planning Federation*)

■ **check-cashing facility** (*See also currency exchange; pay-day loan agency*) A person or business that for compensation engages, in whole or in part, in the business of cashing checks, warrants, drafts, money orders, or other commercial paper serving the same purpose. "Check cashing facility" does not include a state or federally chartered bank, savings association, credit union, or industrial loan company. "Check cashing facility" also does not include a retail seller engaged primarily in the business of selling consumer goods, including consumables, to retail buyers that cash checks or issue money orders for minimum flat fee not exceeding two dollars as a service that is incidental to its main purpose or business. (*San Juan Capistrano, Calif.*)

■ **child** A person under 18 years of age. (*Altoona, Iowa*)

■ **child care** (*See also babysitting*) A service that provides for the care, health, safety, supervision, or guidance of a child's social, emotional, and educational growth, on a regular basis, in a place other than the child's own home. The following uses shall not be considered as child care under the terms of this chapter: (1) A program for children operated by the department of education or a public or private school; (2) a nonresidential program that provides child care for less than four hours a day; (3) a recreational program for children that operates for not more than 90 days in a calendar year; (4) a program whose primary purpose is to provide social, recreational, or religious activity for school-age children such as scouting, boys club, girls club, sports, or the arts; and (5) Child care where the provider cares for fewer than six children, not including children for whom the provider is a parent, stepparent, guardian, custodian, or other relative. (*Fort Wayne, Ind.*)

■ **child care center** (*See also day care definitions*) Any place operated by a person, society, agency, corporation, institution, or any other group that is licensed by the state wherein are received seven or more children under 17 years of age who are not related to such person and whose parents or guardians are not residents in the same house and with such person, society, agency, corporation, or institution responsible for the control and care of children enrolled therein. (*Baton Rouge, La.*)

A facility other than a private residence, receiving one or more minor children for care for periods of less than 24 hours a day, and where the parents or guardians are not immediately available to the child. "Child care center" or "day care center" does not include a facility that provides care for less than two consecutive weeks, regardless of the number of hours or care per day. The facility is generally described as child care center, day care center, day nursery, nursery school, parent cooperative pre-school, play group, or drop-in center. "Child care center" or "day care center" does not include a Sunday school conducted by a religious organization where children are cared for during short periods of time while persons responsible



for such services are attending religious activities. (*Muskegon, Mich.*)

Any establishment that provides regular shelter, care, activity, and supervision (with or without academic instruction) for five or more children. (Stonington, Conn.)

A building, other than the operator's primary place of residence, where children receive child care from a provider: (1) while unattended by a parent, legal guardian, or custodian; (2) for regular compensation; and (3) for more than four hours but less than 24 hours in each of 10 consecutive days per year, excluding intervening Saturdays, Sundays and holidays. The child care provider must hold a valid license from the [state]. It is intended that child care centers be classified as commercial uses and be located in commercial zoning districts. (*Fort Wayne, Ind.*)

A commercial or nonprofit child day care facility not operated as a small or large family day care home. Includes infant centers, preschools, and extended day care facilities. These may be operated in conjunction with a business, school, or religious facility, or as an independent land use. (*Rancho Mirage, Calif.*)

**Commentary:** A common fault of zoning codes is to treat all child care facilities as if they were large commercial operations. Zoning definitions of child care facilities should distinguish between home-based child care and larger child care centers. These distinctions should be based on the number of children to be served at the facility. When possible, the classifications should correspond to those included in state law pertaining to the licensing and regulation of child care. This same recommendation applies to care centers for people with developmental disabilities and senior citizens. Readers seeking additional information about child care center definitions and regulations should consult PAS Report No. 422, *Zoning for Child Care*, by Ann Cibulskis and Marsha Ritzdorf.

■ **child day care home** A private home in which more than six but not more than 12 minor children are given

care and supervision for periods of less than 24 hours a day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. Group day care home includes a home that gives care to an unrelated minor child for more than four weeks during a calendar year. (*Muskegon, Mich.*)

A child care facility operated by a party who resides at the premises used for child care services, which provides service for periods less than 24 hours per day. (*Santa Rosa, Calif.*)

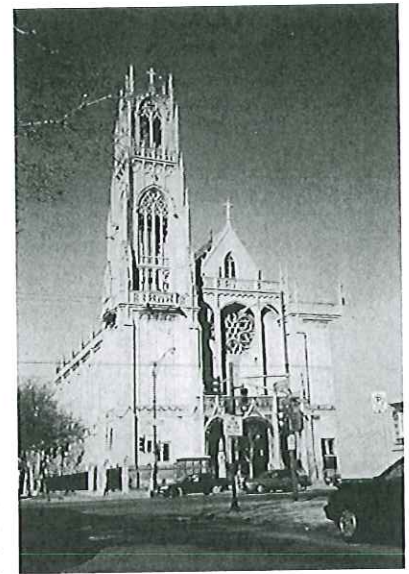
A residential structure, which is the primary residence of the child care provider, in which at least six children (not including the children for whom the provider is a parent, stepparent, guardian, custodian, or other relative) at any time receive child care from a provider: (1) while unattended by a parent, legal guardian, or custodian; (2) for compensation; and (3) for more than four hours but less than 24 hours in each of 10 consecutive days per year, excluding intervening Saturdays, Sundays, and holidays. The child care provider must hold a valid license from the [state]. (*Fort Wayne, Ind.*)

■ **chimney** A vertical shaft of reinforced concrete, masonry, or other approved material enclosing one or more flues, for the purpose of removing products of combustion from solid, liquid, or gaseous fuel. (*Fort Wayne, Ind.*)

■ **Christmas tree sales facility** (See also *Halloween pumpkin sales lot; outdoor sales, seasonal*) A retail sales operation, generally conducted wholly out-of-doors, that offers for sale on a temporary, limited basis Christmas trees and related holiday items such as wreaths and Christmas tree stands. The allowable sales period extends generally from the Thanksgiving holiday through December 25. (*Azusa, Calif.*)

■ **church** (See also *religious institution*) A building used for nonprofit purposes by a recognized and legally established sect solely for the purpose of worship. (*Coral Gables, Fla.*)

A building wherein persons regularly assemble for religious worship and



church

which is maintained and controlled by a religious body organized to sustain public worship, together with all accessory buildings and uses customarily associated with such primary purpose. Includes synagogue, temple, mosque, or other such place for worship and religious activities. (*Muskegon, Mich.*)

**Commentary:** Most zoning codes allow churches, either by right or as a conditional use, in residential districts. Some codes include accessory uses, such as schools, coffee houses, day care centers, bingo parlors, and halls, in the definition of church. A community, however, may want to distinguish these uses from the church itself because they are likely to have a greater impact on the surrounding residential area. Indeed, one of the problems confronting communities in the past few years is the creation of "megachurches" (see the definition of "church, megachurch" below) whose impacts far exceed those of a traditional church.

■ **church, community** A church or religious institution with a seating capacity of greater than 600 persons in the sanctuary or main activity area. (*Denver, Colo.*)

■ **church, large** A church or other place of religious worship having more than 400 seats or larger than 8,000 square feet of total gross floor area. (*Rancho Mirage, Calif.*)

TRUE  
IN

Teton  
County

CODE!



! (See *farming operation, dairy*)

(See also *detention dam; obstruction, flow*) All obstructions, wall kments, or barriers, together with outments and appurtenant works, constructed for the purpose of storing or diverting water or creating a pool ground water storage tanks are not ed. (*Schaumburg, Ill.*)

man-made structure which is or may be used to impound water. (*Deschutes Co., Ore.*)

**dance hall** Establishments in which more than 10 percent of the total floor area is designed or used as a dance floor, or where an admission fee is directly collected, or some other form of compensation is obtained for dancing. (*Blacksburg, Va.*)

place of assembly, open to the public and operated for profit, where dances, parties, receptions, and other gatherings are held. Dance halls may provide live entertainment, may serve alcoholic beverages, and may serve catered meals provided the owner or operator holds the appropriate licenses and permits. (*Madison, Wisc.*)

building open to the general public for the purpose of providing a place for dancing; and where an admission is charged for the purpose of making a profit, except when sponsored by civic, charitable, or nonprofit groups. (*Campbell County, Va.*)

commercial establishment open to the general public which provides a dance area of 1,000 square feet or more. (*Wilmington, Ohio*)

any room, place, or space open to the general public patronage in which is carried on dancing wherein the public may participate, whether or not a charge for admission for dancing is made. (*St. Paul, Minn.*)

**dance school** (See *educational facilities, school for the arts*)

**dancing establishment** (See also *nightclub*) Any restaurant, bar, hotel or motel, club or lodge, nightclub, or other gathering place open to the public, whether or not admission is charged, wherein dancing is allowed and participated in on a recurring basis by one or more persons, whether or not they are compensated for their dancing. This shall not include dance academies, schools, or studios where dancing is permitted only by students and instructors engaged in dancing instruction, nor shall this include public or private schools, which host dances solely for students, or adult-supervised youth organizations, city, park district, or other governmental facilities that host dances, nor shall this include motels, hotels, or restaurants or businesses that only rent enclosed banquet rooms or space for private parties. (*Thousand Oaks, Calif.*)

**dangerous or objectionable use** (See also *locally unwanted land use*) Any land or building structure used or occupied in any manner so as to create any dangerous, injurious, noxious, or otherwise objectionable fire, explosive, or other hazard; noise or vibration, smoke, dust, odor, or other form of air pollution; heat, cold, dampness, electrical, or other disturbance; glare; liquid or solid refuse or wastes; or other substance, condition, or elements in such manner or in such amount as to adversely affect the surrounding area or adjoining premises. (*Livermore, Calif.*)

**data processing facility** (See also *telecom hotel*) Facilities where electronic data is processed by employees, including, without limitation, data entry, storage, conversion or analysis, subscription and credit card transaction processing, telephone sales and order collection, mail order and catalog sales, and mailing list preparation. (*Boulder, Colo.*)

An establishment primarily involved in the compiling, storage, and maintenance of documents, records, and other types of information in digital form utilizing a mainframe computer. This term does not include general business offices, computer-related sales establishments, and business or personal services. (*Hawaii County, Hawaii*)

**day care** (See also *child care definitions*)

The care of one or more children on a regular basis, for periods of less than 24 hours per day, in a place other than the child's own dwelling unit. Day care includes family day care, group family day care, and group day care, as hereinafter defined: (1) **Family Day Care**: a day care program providing care for not more than 10 children at one time, and which is licensed by the county as a family day care home. The licensed capacity must include all children of any caregiver when the children are present in the residence. (2) **Group Family Day Care**: a day care program providing care for no more than 14 children at any one time, of which no more than 10 are under school age and which is licensed by the county as a group family day care home. The licensed capacity must include all children of any caregiver when the children are present in the residence. (3) **Group Day Care**: a day care program providing care for more than six children at one time and licensed by the state or the city as a group day care center. Group day care includes programs for children known as nursery schools, day nurseries, child care centers, play groups, day care centers for school age children, after school programs, infant day care centers, cooperative day care centers, and Head Start programs. (*St. Paul, Minn.*)

**day care center** Any facility operated for the purpose of providing care, protection and guidance to 10 or more individuals during only part of a 24-hour day. This term includes nursery schools, preschools, day care centers for individuals, and other similar uses but excludes public and private educational facilities or any facility offering care to individuals for a full 24-hour period. (*Blacksburg, Va.*)

10 A place other than an occupied dwelling that provides for the care of children or adults; or a large care home. Those receiving care are not all related to each other by blood or marriage and are not legal wards or foster children of the attendant adults, and for which care a payment, fee, or grant is made. Of those receiving care, only dependents of a large care home operator may reside on the site. (*Durham, N.C.*)



- 11 ■ **day care center, adult** A facility providing care for the elderly and/or functionally impaired adults in a protective setting for a portion of a 24-hour day. (Wheaton Ill.)
- 12 ■ **day care center, large** A facility: (1) licensed by the state, if applicable; (2) providing care for seven or more children or adults who do not reside in the facility, are present primarily during daytime hours, and do not regularly stay overnight; and (3) which may include some instruction. (Boulder, Colo.)
- 13 ■ **day care center, small** A facility: (1) in a dwelling unit; (2) licensed by the state, if applicable; (3) providing care for six or fewer children or adults who (except for family members) do not reside in the facility, are present primarily during daytime hours, and do not regularly stay overnight. Family members who receive care in the facility are included in the total; and (4) which may include some instruction. (Boulder, Colo.)
- 14 ■ **day care home** (See also *babysitting*) A dwelling in which a permanent occupant of the dwelling provides for the care of children or adults. Those receiving care are not all related to the occupant or to each other by blood or marriage and are not the legal wards or foster children of the attendant adults. Those receiving care and who are not dependents of the occupant, do not reside on the site. For the purpose of this ordinance, such activities shall meet all requirements for home occupations. If children are the primary clients of the use, the following standards must be met: (1) the home meets all state standards for registration and inspections; (2) the number of children does not exceed five preschool children, including the caregiver's children, and three school-age children, not including the caregiver's children. (Durham, N.C.)
- 15 The keeping for part-time care or instruction, whether or not for compensation, of five or less persons at any one time within a dwelling, not including members of the family residing on the premises. (North Liberty, Iowa)
- A private home in which one but fewer than seven minor children are given care and supervision for periods of less than 24 hours per day, unattended by a parent or legal guardian, except children related to an adult member of the family by blood, marriage, or adoption. "Family day-care home" includes a home that gives care to an unrelated minor child for more than four weeks during a calendar year. (Rockford, Mich.)
- 16 A home that regularly provides care, protection, and supervision for 14 or fewer children, in the provider's own home, for periods of less than 24 hours per day, while the parents or guardians are away, and is either a large family day care home or a small family day care home. (San Juan Capistrano, Calif.)
- 17 A home which generally provides care, protection, and supervision of 12 or fewer children, in the provider's own home, for periods of less than 12 hours per day, while the parents or guardians are away. (Moorpark, Calif.)
- 18 ■ **day care home, large family** The use of a residential dwelling unit and the lot upon which it is located for the daytime care of seven to 12 children inclusive, including any children who normally reside on the premises. (Lake Elsinore, Calif.)
- 19 A home that provides family day care for seven to 14 children inclusive, including children under the age of 10 years who reside at the home. (San Juan Capistrano, Calif.)
- 20 A home which provides day care to seven to 12 children inclusive, including children under the age of 10 years who reside at home. (Moorpark, Calif.)
- 21 A day care facility located in a single-family residence where an occupant of the residence provides care and supervision for nine to 14 children. Children under the age of 10 years who reside in the home count as children served by the day care facility. (Rancho Mirage, Calif.)
- 22 ■ **day care home, small family** (See also *incidental remunerative activities*) The use of a residential dwelling unit and the lot upon which it is located for the daytime care of six or fewer children, including those who reside at the home. (Lake Elsinore, Calif.)
- 23 A home that provides family day care for eight or fewer children, including children under the age of 10 years who reside at the home. (San Juan Capistrano, Calif.)
- 24 A home which provides family day care to six or fewer children, including children under the age of 10 years who reside at the home. (Moorpark, Calif.)
- 25 A day care facility located in a single-family residence where an occupant of the residence provides care and supervision for eight or fewer children. Children under the age of 10 years who reside in the home count as children served by the day care facility. (Rancho Mirage, Calif.)
- 26 ■ **day spa** (See *health spa*)
- **daylight plane** (See also *bulk plane*; *sky exposure plane*) An inclined plane, beginning at a stated height above grade at a side or rear property line, and extending into the site at a stated upward angle to the horizontal, which may limit the height or horizontal extent of structures at any specific point on the site where the daylight plane is more restrictive than the height limit or the minimum yard applicable at such point on the site. (Newport Beach, Calif.)
- **dead-end street** (See *street, dead-end*)
- **decentralization** (See *leapfrog development*; *sprawl*)
- **decibel (dB)** (See *noise, decibel (dB)*)
- **decibel, A-weighted (dBA)** (See *noise, decibel, A-weighted (dBA)*)
- **decision-making authority** An individual or body vested with the authority to make recommendations or act on application requests. The final decision-making authority is the one which has the authority to act on a request by approving or denying it. This may include the director of community development or his designee, the planning commission, or the city council. (Moorpark, Calif.)
- **decision final** The decision to deny a proposal by the appellate decision making authority. (Beaverton, Ore.)
- **deck** (See also *porch, open*) A structure, without a roof, directly adjacent to



*From Teton County, Wyoming Land Development Regulations:*

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**Day care home, family.** Family day care home means a private home or other facility in which care is provided for hire for at least three (3) but not more than six (6) persons for part of a day in a family setting.

28

**Day care home, group.** Group day care home means a private home or other facility in which care is provided for hire for at least seven (7) but not more than eleven (11) persons for part of a day in a family setting. Group day care centers are subject to the standards set forth in Section 23100, Group Day Care Center or Group Day Care Home.

29

**Day care center, group.** Group day care center means a business that is operating, for profit or otherwise, where twelve (12) or more persons are cared for on a regular basis, for less than a twenty-four hour period. Group day care centers are subject to the standards set forth in Section 23100, Group Day Care Center or Group Day Care Home.

FROM

Teton County Idaho Zoning Code Definition (Section 8-4-2) as of June 22, 2011:

30 DAY CARE CENTER: A business that receives more than six (6) persons for care for any part of a 24 hour day, without overnight stays.

31 DAY CARE,  
RESIDENTIAL A family home occupied by the day care provider in which family-like : care is given to no more than six (6) persons not related to the day care provider, for any part of the 24 hour day, without overnight stays.



13. **Day Care.** The care and supervision provided for compensation during part of a twenty-four (24) hour day, for a child or children not related by blood or marriage to the person or persons providing the care, in a place other than the child's or children's own home or homes. (3-30-01)
14. **Day Care Center.** A place or facility providing day care for compensation for thirteen (13) or more children. (3-30-01)
15. **Department.** The Idaho Department of Health and Welfare. (3-30-01)
16. **Direct Care Staff.** An employee who has direct personal interaction with children in the provision of child care and is included as staff in meeting the minimum staff-child ratio requirements. (3-30-01)
17. **Director.** Director of the Idaho Department of Health and Welfare or designee. (3-30-01)
18. **Family Day Care Home.** A home, place, or facility providing day care for six (6) or fewer children during part of a twenty-four (24) hour day. (3-30-01)
19. **Foster Care.** The twenty-four (24) hour substitute care of children, by persons who may or may not be related to a child, in lieu of parental care in a foster home. (3-30-01)
20. **Foster Home.** The private home of an individual or family licensed or approved as meeting the standards for foster care and providing twenty-four (24) hour substitute care to six (6) or fewer children. (3-30-01)
21. **Foster Parent.** A person or persons residing in a private home under their direct control to whom a foster care license or certification has been issued. (3-30-01)
22. **Group Day Care Facility.** A home, place, or facility providing day care for seven (7) to twelve (12) children. (3-30-01)
23. **Inter-Country Adoption.** The placement of a child from one (1) country to another for the purpose of adoption. (3-30-01)
24. **Mechanical Restraint.** Devices used to control the range and motion of an individual, including handcuffs, restraint boards, restraint chairs, and restraint jackets. (3-30-01)
25. **Medical Professionals.** Persons who have received a degree in nursing or medicine and registered nurse, nurse practitioner, physician's assistant and medical doctor. (3-30-01)
26. **Member of the Household.** Any person, other than a foster child, who resides in, or on the property of, a foster home. (3-30-01)
27. **Nonaccredited Residential School.** A residential school for any number of children that is not certified or accredited pursuant to Section 39-1207, Idaho Code, or has lost accreditation and is subject to the jurisdiction of the Department as a children's residential care facility pursuant to Section 39-1210, Idaho Code, unless and until accreditation is certified by the Idaho Department of Education. (3-30-01)
28. **Non-Compliance.** Violation of, or inability to meet the requirements of, the act or a rule promulgated under the act, or terms of licensure. (3-30-01)
29. **Organization.** A children's agency or a children's residential care facility. (3-30-01)
30. **Person.** Any individual, group of individuals, associations, partnerships or corporations. (3-30-01)
31. **Physical Intervention.** Physical restraint utilized to control the range and motion of an individual. (3-30-01)

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licensed daycare to between seven (7) and twelve (12) children for periods of up to 12 hours per day. The total count of daycare children shall include all the children of any caregiver when the children are present in the home.

- c. DAY CARE HOME, FAMILY *(replaces Day Care, residential)* A Family Day Care Home uses a residential dwelling and the lot upon which it is located to conduct a business providing the day care of up to six (6) children for periods up to 12 hours per day. The total count of daycare children shall include all the children of any caregiver when the children are present in the home. The State of Idaho does not require that a Family Day Care Home provider be licensed.

3. Section 8-6-2 , Table 8-6-2 Standard PC Conditions: (see Attachment 6-7)

- a. Add the row for *Day Care Facility, Group* with standard conditions for Parking, Hours of Operation, Signage, Additional Inspections, and Additional Comments.

4. Section 8-6-2-B-14 Day Care Facility, Group

Day Care Facility, Group (A-20, A-2.5, R-1, C-2)

- a. All Group Day Care facilities shall be licensed by the State prior to providing day care for more than 6 children and shall maintain all licensure requirements.
- b. A parking and/or drop-off area shall be designated entirely within the property and shall not depend upon the use of public or private roadways for parking or drop-offs. The drop-off/parking area should accommodate three vehicles at one time, not including the vehicles of the residents.
- c. Roadway and traffic impacts to private subdivision and/or public roads are possible and may require some proportionate mitigation, as determined by the County Engineer.

**BACKGROUND:**

Presently, there are only two categories of day care defined in the Teton County Zoning Ordinance. There are three categories defined by the Idaho Department of Health and Welfare, which is the entity that licenses day care providers.

Presently, a provider who cares for 6 or fewer children (called a *Day Care, Residential* in Section 8-4-2) must apply for a Teton County Conditional Use Permit and the application fee is \$1260 A CUP requires two public hearings and a fair amount of additional materials supporting the application. This same provider of six or fewer children would not be required by the State to get a license to operate a *Family Day Care Home*" (as it is called by the State)

**ISSUES:**

*Why is the Planning Department proposing these changes to the existing Zoning Ordinance?*

The Department has received calls lately from existing daycare providers who have been asked by a state agency to show that they are in compliance with local regulations, including zoning regulations. In reading the existing regulations staff noticed that a "residential day care" is defined as one that is conducted in a home and cares for no more than six (6) children (who are